

REMARKS

In the Office Action dated March 13, 2006, claims 1, 2, 10, and 11 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,101,353 (Lupien) in view of U.S. Patent No. 6,792,399 (Phillips); claims 3-6 and 12-14 were rejected under § 103 over Lupien in view of Phillips and U.S. Patent No. 6,285,989 (Shoham); claims 8, 9, and 17 were rejected under § 103 over Lupien in view of Phillips and U.S. Patent No. 6,868,525 (Szabo); claim 16 was rejected under § 103 over Lupien in view of Phillips, Shoham, and Szabo; and claims 7 and 15 were rejected under § 103 over Lupien, Phillips, and Shoham in view of Szabo and “Auction Models When Bidders Make Small Mistakes: Consequences for Theory and Estimation,” by Patrick Bajari et al. (Bajari).

It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1, for at least the reason that the hypothetical combination of Lupien and Phillips does not teach or suggest all elements of claim 1. *See* M.P.E.P. § 2143 (8th ed., Rev. 3), at 2100-135.

Lupien was relied upon as being the primary reference, with Phillips cited by the Office Action as teaching claim features not taught by Lupien. Specifically, the Office Action conceded that Lupien does not disclose a bidding model and predicting bidding behaviors. 3/13/2006 Office Action at 3.

Lupien describes a system that monitors and analyzes a variety of factors to determine trading positions for securities, where the factors include other security trades, price and size quotations, and financial ratios for particular securities. Lupien, Abstract. The system is an automated securities trading and portfolio management system for use by investment managers, especially for use with large portfolios including a large number of securities. Lupien, 2:60-68. The system selects and executes trades based on analysis of transactions and imposition of controls. Lupien, 4:61-64. As correctly noted by the Office Action, Lupien does not disclose a bidding behavior predictor that predicts bidding behaviors of bidders in the auction based on the

estimated unknown elements of market structure and characteristics of the auction.¹ However, the Office Action made the unsupported comment that “the predicting of bidding behaviors obviously underlies the process leading to action positions for participating in the auction process involved in securities markets.” 3/13/2006 Office Action at 3. There is absolutely no indication or suggestion of this feature in Lupien. Lupien mentions various factors that are considered in deciding whether to make a trade, and none of these factors involve predicting bidding behaviors of bidders in an auction. Phillips also fails to teach or suggest the predicting of bidding behaviors of bidders. The Office Action cited to various passages of Phillips regarding the forecasting of values of variables, such as the price of a share of stock or a commodity. Phillips is concerned about improving techniques for forecasting such values of variables, including stock or commodity prices. Phillips, 1:8-10. In columns 3-6 of Phillips, reference is made to various conventional techniques of forecasting stock prices that the author of Phillips believes suffer various drawbacks. To improve forecasting, Phillips proposes the use of a forecasting contest in which participants are encouraged to make the most accurate predictions possible to provide a “highly valuable” database of forecasts. Phillips, 14:17-45. This contest involves participants entering what they believe to be predicted values for variables, such as stock or commodity prices. Providing a contest in which participants predict stock or commodity prices is entirely different from providing a bidding behavior predictor that predicts bidding behaviors of bidders in an auction based on estimated unknown elements of market structure and the characteristics of the auction.

In view of the foregoing, it is clear that the hypothetical combination of Lupien and Phillips clearly does not teach or suggest all elements of claim 1. A *prima facie* case of obviousness has therefore not been established.

Independent claim 10 is similarly allowable.

Dependent claims (including new dependent claims 18-23) are allowable for at least the same reasons as corresponding independent claims. In view of the allowability of base claims over Lupien and Phillips, it is respectfully submitted that the obviousness rejections of dependent claims over Lupien, Phillips, and other references have also been overcome.


¹ The Office Action also correctly noted that Lupien fails to disclose a structure extractor that estimates unknown elements of market structure of the auction based on auction characteristics data extracted from historical auctions for similar items and a bidding model matching the extracted auction characteristics data.

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Allowance of all claims is therefore respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10014416-1).

Respectfully submitted,

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Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631
Telephone: (713) 468-8880
Facsimile: (713) 468-8883